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Staging Justice: Courtroom Semiotics and the Judicial Ideology in China

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Abstract

The right to a fair trial as a fundamental human right has been widely established in the international community. While the notion of a fair trial is typically associated with procedural safeguards, fairness can be reflected in spatial dimensions [35]. Courtroom design, apart from achieving its main functional objectives, reflects the institutional ideology of how justice can be staged in public. In alignment with the perspective that courtroom as theatre consists of a sign system, this paper adopts a semiotic approach to the courtroom setting of Chinese criminal trials. With a thick description of space, mobility and attire, it attempts to probe into how judicial ideology is symbolically framed in the field. Drawing on ethnographic fieldwork of three courts, this paper discusses how courtroom space is constructed semiotically as a performative stage on which legal dramas unfold [26]. Ultimately this paper argues that an investigation into the semiotics in Chinese courtrooms will shed light on an understanding of its judicial value, ideology of justice and dynamics of power relationship.

Keywords: Semiotics, criminal courtroom, space, ideology, justice, China

All the world's a stage,

And all the men and women merely players;

They have their exits and their entrances;

And one man in his time plays many parts,

His acts being seven ages.

— William Shakespeare (As you like it, Act II)

1. Introduction

While the whole world is a stage, as is claimed by Shakespeare, “judicial proceedings are themselves a type of theatre” [2, p. 82]. It is true that courtroom is often compared as a theatre inasmuch as they have resemblances in many aspects. According to Simonett, “both stage and courtroom contain the stuff of drama”—conflicting claims, a search for truth, the lure of money, love, violence...—all these

comprise “a great dramatic play and all are standard courtroom fare” [33, p. 1145]. Therefore, he claims that “the trial of a lawsuit, because it contains all the classical dramatic ingredients, can be compared to the performance of a play” [33, p. 1145]. Within this theatrical frame, courtroom can be depicted as a proscenium, trial participants are actors who dress up in the specially-designed costumes, play their designated roles in front of audience sitting in the public gallery.

A criminal trial is a complex form of theatre [3, p. 349]. The adversarial trial, frequently projected in movies and TV series, is similar to a battle-field-like drama where protagonists and antagonists (prosecutors and lawyers) argue intensely to win trust from audience (juries and judges) over their narration of the case. The inquisitorial trial, though comparatively less melodramatic, has its own theatrical features. It is argued that an exploration of courtroom action as theatre will help us understand the nature and the role of law in society [2].

In the study of theatre and drama, the Prague Linguistic School developed a semiotic approach in the 1930s and 1940s. The central idea is to understand theatre as a complex semiotic process involving the “production and communication of the meaning in the performance itself and the systems underlying it” [12, p. 2]. Apart from language use and performance, nonverbal communication, including stage arrangement, light, sound, costumes, are all components of this semiotic process. It is not only what actors say and perform on the stage, but also everything in this theatrical frame is to be examined as a sign with its connotation and symbolic meaning [3].

Courtroom space is as important to the trial proceedings as the stage to a drama. Within this physical space, justice is administered, staged and performed. Decoration, furniture, arrangement of seats, vision, clothes, and various other aspects have an impact on the upcoming performance. The design of the courtroom makes up a sign system through which society communicates its ideal model of the relationship between participants involved in judicial proceedings [15]. According to Van der Ryn, an architect, “the dignity of legal proceedings as reflected in their surroundings should reflect the dignity of all participants, as well as the ideal of justice” [37, p. 150]. In other words, courtroom design is a manifestation of judicial function in safeguarding justice and as well as reflective of adjudication

ideology in a given society.

With this theoretical orientation, everything in the Chinese criminal courtroom—whether it is the seating arrangement, the furniture, the dress, the body movement—is to be analysed in relation to its significance in the trial performance for it is “integral to the meaning creation process of the criminal trial” [3, p. 347]. Unpacking Chinese courtrooms from a semiotic perspective, therefore, may reveal the underlying judicial perception of adjudication, power relationship and justice.

Though there have been many discussions over the interplay between architectural design and internal configurations of courthouses and courtrooms and the evolving social and judicial ideology (e.g. Mulcahy [24], [25]; Rosenbloom [31]; Resnik and Dennis [28], [29]; Resnik, Curtis and Tait [30]), most of them focus on common-law countries and less documentation is made in the Chinese context. In the past three decades, China’s criminal justice system has undergone considerable reform in the course of its economic development and social changes. Against this backdrop, Chinese researchers have embarked on an exploration into the semiotic representation of the seating arrangement in criminal courts (e.g. Gu [16]; Lan [21]), the changing attire of legal professionals [4], but these studies mostly centre on one aspect of the alterations, for instance, the seating of victims [16], the uniform of judges [4]. They fail to present a holistic picture of what changes have taken place in the space of Chinese courtroom in relation to the evolving legal ideology, nor do they base their study on empirical work or provide sufficient details. This paper aims to fill the gap, through a thick description and close reading of semiotics in Chinese courtroom, including the seating arrangement and positioning of trial participants, physical movement, apparel, by probing into how signs in the physical environment of the criminal hearing are constitutive, reflective of judicial ideological processes of law and justice. Two questions are specifically addressed:

1. What are the defining features of space for the operation of judicial justice under the Chinese criminal justice system?
2. How is meaning created and constructed semiotically in the spatial setting that informs us of the adjudication ideology, power relationship and perception of justice in the Chinese context?

This paper is based on my 4-month ethnographic field trip to three courts in a southern Chinese city in 2014: two are district courts and one is intermediate. I did courtroom observations of criminal trials involving interpreters in seven courtrooms of these three courts. During my trial observations, I took special notice of the physical design and the interior layout. Aside from ethnographic notes, the analysis is also drawn from talks and interviews with trial participants and judicial regulations. As photo-taking is prohibited during the trial, online media images resembling similar courtroom setting are cited for clear illustration when necessary.

In what follows, the paper begins with a discussion over the interplay between space and judicial ideology. Then it proceeds to look into the regulations governing courtroom layout. Next is the analysis of the spatial setting, mobility and the dress of trial participants. The final part is a summary of the major findings of this semiotic study, its implications and limitations.

2. Courtroom space as the ideological representation

The judicial space is not neutral in its own right. It is political, ideological, not “a flat, immobilized surface” [24, 385]. “[T]he spatial arrangement of the court, the arrangement of the people”, as Foucault argues, “implies an ideology” [13, p. 8]. Change in this sign system, if any, can be seen as an embodiment of the judicial ideological transformation of adjudication and justice.

A brief overview of the historical development of courtroom design in America informs us of how the spatial arrangement has undergone changes as a reflection of the evolving judicial ideologies. Traditionally, the American courtroom was designed in line with architectural criteria only. Setup of acoustics, lighting, placement of furniture were aimed to fulfil the technical standard, rather than serving the judicial purpose [39]. Later on, there was a movement towards more consideration taken into interaction facilitation in courtroom design. Throughout the years, a number of changes have taken place. From the originally “round, trapezoidal or over-shaped” design, later the “courtroom-in-the-round” with a straightened jury box, to a “diagonal” and then “polygonal”

courtroom in different states, though lacking a national uniformed criterion [39, p. 595], these shifts evidence that the judicial standard of courtroom design has an impact on the shaping of legal architecture. Visually and literally, judicial ideology finds its articulation in the physical setting. Discharging defendants from the prisoner's dock and allowing them to sit next to their lawyers at a counsel table during the trial is the best example to illustrate how the design of the courtroom keeps up with the growing autonomy that the American courts have granted to defendants. The abolishment of the prisoner's dock in American courts, according to Shepard [32], reflects the adversarial ideology of ensuring equal status between prosecution and defence.

If the courtroom design in America is said to facilitate the adversarial interaction, then Chinese courtroom should meet the inquisitorial purpose of its criminal justice system. Under the inquisitorial system, there is an assumption that facts of the crime can be best disclosed by means of investigation and legal professionals are believed to be in a better position to carry out this fact-finding investigation and interrogation [8]. Judges in the inquisitorial system have greater power before and during the trial. Compared with their counterparts in the adversarial system, they are more actively engaged in investigating and examining the evidence collected before the hearing. In the course of the trial, they not only control the proceedings, but also take part in investigating the evidence and questioning defendants. Their ruling tends to rely heavily on dossiers, the written compilation of the evidence, interrogations and confessions of defendants. As a result, it is contended that the major function of the public hearing in the inquisitorial system is to "verify and ratify the pre-trial investigation and the evidence collected," rather than provide a forum for a "contentious debate" between prosecution and defence [8, p. 162].

Essentially, public staging of criminal trials is ritualistic and instrumental. The entire trial process is instrumental in that the mighty power of the state to punish perpetrators in a proper form and due process is demonstrated to the general public. The proceedings are also didactic through which information and knowledge about morality, law and order are conveyed and disseminated to spectators, thus deterring potential offenders.

Ultimately, the trial proceedings are symbolic representation of legal justice. According to Komter, the legal ritual “transforms the activities in the courtroom into a ceremony of justice” [20, p. 134]. Though it is noted that trial is not the most “expedient way” to justice [38, p. 152], “the court must not only see that justice is done, but it must, above all, make sure that justice is seen to be done” [20, p. 134]. Mulcahy [24, p. 383], in her research on court architecture, argues that probing into the “interface between the physical environment of the court and the fundamental principle in which the interaction takes place and the fundamental principle that justice should be done” provides a way of understanding the judgecraft in that legal system. In the following section, along with the description, we endeavour to discover how judicial ideologies enact expressions in courtroom configurations and how legal justice is staged semiotically in the physical environment.

3. Chinese criminal courtroom: understanding the semiotic representation

3.1 The national provisions

The spatial setting in Chinese criminal courts serves a semiotic manifestation of the dominant judicial ideology. Nationally there are three legal instruments explicating how courtrooms should be set up. The first stipulation was issued by the Supreme People’s Court and the Supreme People’s Procuratorate in 1985 (hereinafter referred to as the *Stipulation*¹). At the beginning of the document, it is stated that the provision is enacted for the purpose of building consistency throughout the courts in the country; the standard layout combines both China’s own experience and foreign practices. The *Stipulation* is rather short, regulating only two aspects of the courtroom interiors: placement of the tables for judges, public prosecutors and defence counsel and positioning of a witness’ stand (see Figure1). It is required that the

¹ The Supreme People’s Court and the Supreme People’s Procuratorate. 27 May 1985. The Stipulation Issued by the Supreme People’s Court and the Supreme People’s Procuratorate on the Arrangement of the Bench, the Prosecution Table and the Defence Table (最高人民法院、最高人民检察院关于人民法院审判法庭审判台、公诉台、辩护台位置的规定).

three tables shall be elevated at the same level and the witness' stand be placed on the lower ground. For the first time, a nationwide standard was established under which the incongruent court setting was required to be restructured in pursuance of the *Stipulation*.

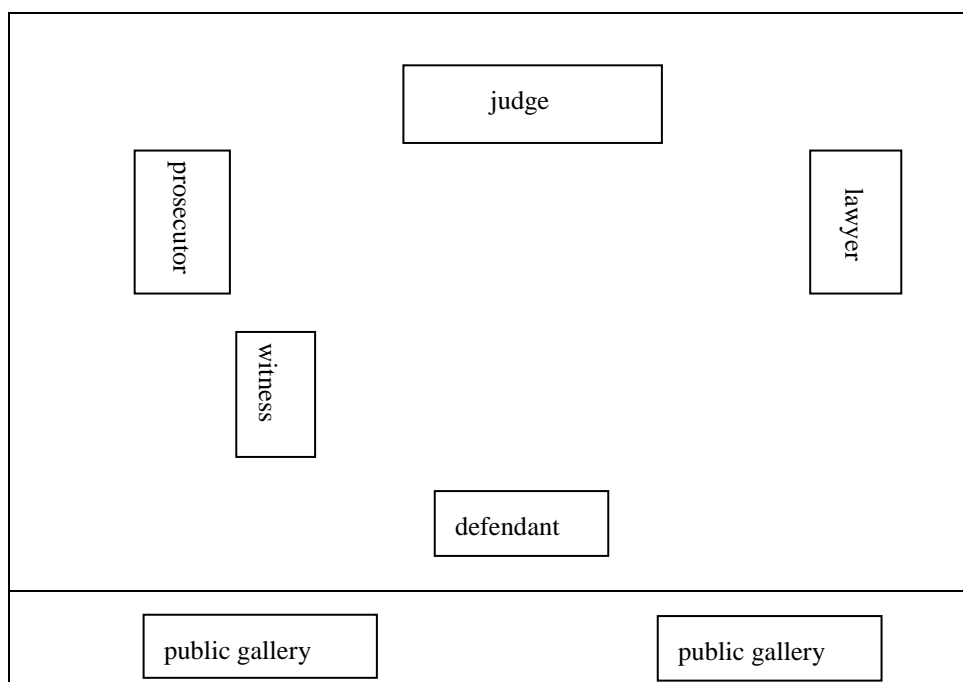


Figure 1. Courtroom layout under the *Stipulation*

Later in 1993, the Supreme People's Court publicised a notice to reiterate standardisation of the layout for criminal courtrooms, laying down more specificities with respect to naming tribunals, seating court clerks, hanging the national emblem and designating colour for furniture (hereinafter referred to as the *Notice 1*²). In 1997, subsequent to the implementation of the revised *Criminal*

² The Supreme People's Court. 8 December 1993. The Notice Issued by the Supreme People's Court on the Name of the Courtroom, the Layout of the Adjudication Area and the Hanging of the National Emblem (最高人民法院关于法庭的名称、审判活动区布置和国徽悬挂问题的通知).

Procedure Law (hereinafter referred to as the *CPL*) in 1996, the third document on courtroom setting (hereinafter referred to as the *Notice*³) was formulated by the Central Committee of the Political and Legislative Affairs of the Communist Party of China. Apart from spelling out the seating arrangement for victims and plaintiffs in the collateral civil action (see Figure 2), the *Notice 2* also covers how to place the defendant's dock and emphasises the central role of the judge in the whole proceedings by requiring the bench to be elevated at a level higher than other seats.

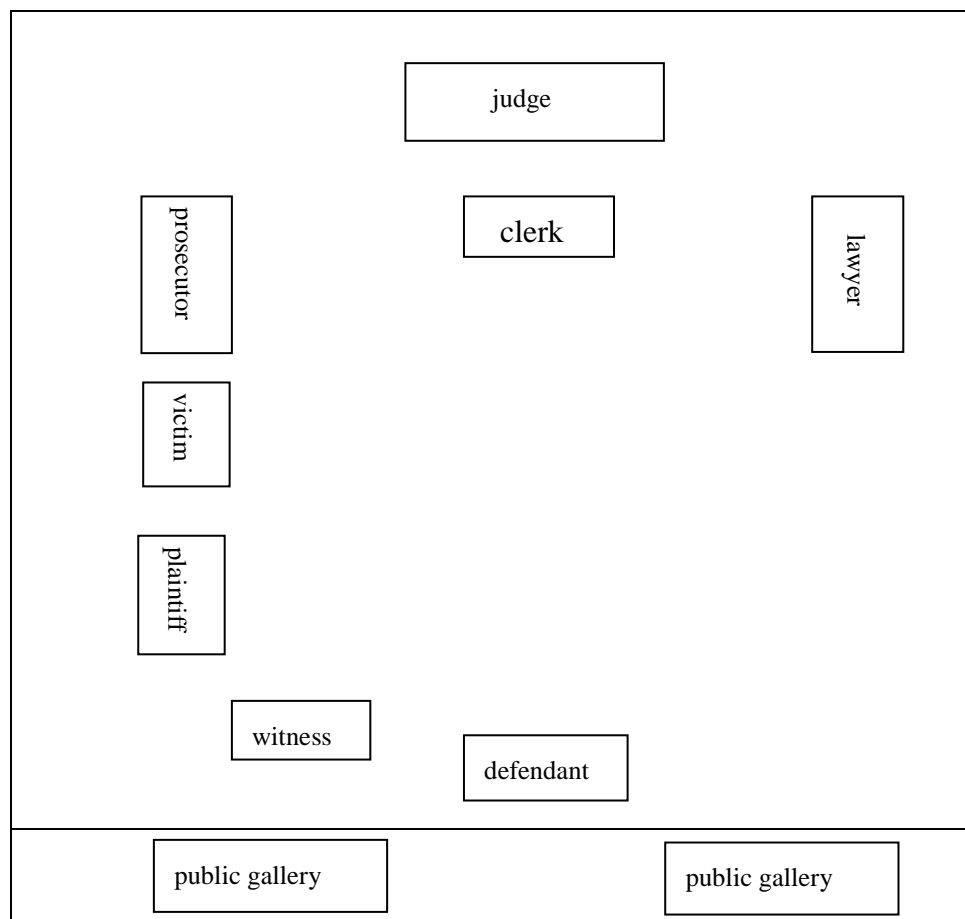


Figure 2. Courtroom layout under the *Notice 2*

These three documents have provided a uniform code for courtroom layout throughout the country. The issuance of the stipulations demonstrates that the judiciary is well aware of the symbolic meaning and significance of the spatial setting and the signs therein. By means of regulating how the courtroom

³ The Central Committee of Political and Legislative Affairs. 31 January 1997. The Notice Issued by the Central Committee of Political and Legislative Affairs, Communist Party of China on Several Issues Following the Implementation of the Revised Criminal Procedure Law (中共中央政法委员会关于实施修改后的刑事诉讼法几个问题的通知).

should be set up, how participants should be seated and positioned, the judiciary controls and carefully chooses the semiotic resources in which it communicates the legal ideology of adjudication and justice to the public.

3.2 The spatial arrangement

For most ordinary citizens, their first impression of Chinese courtroom is formal and grand, because, according to Chinese officials, “courtroom design must be practical and must look stately, dignified and tasteful” [36, p. 38]. In my field trip, the layout of the seven courtrooms is set up in a way similar to what is depicted in Figure 3, except variation in size of space, the seating arrangement for interpreters and court clerks, and installation of technical facilities. The actual setting of the six small criminal courtrooms bears a great resemblance to the one in Figure 4, while the public trial of a group of defendants in one big courtroom shares many similarities with the one portrayed in Figure 5.

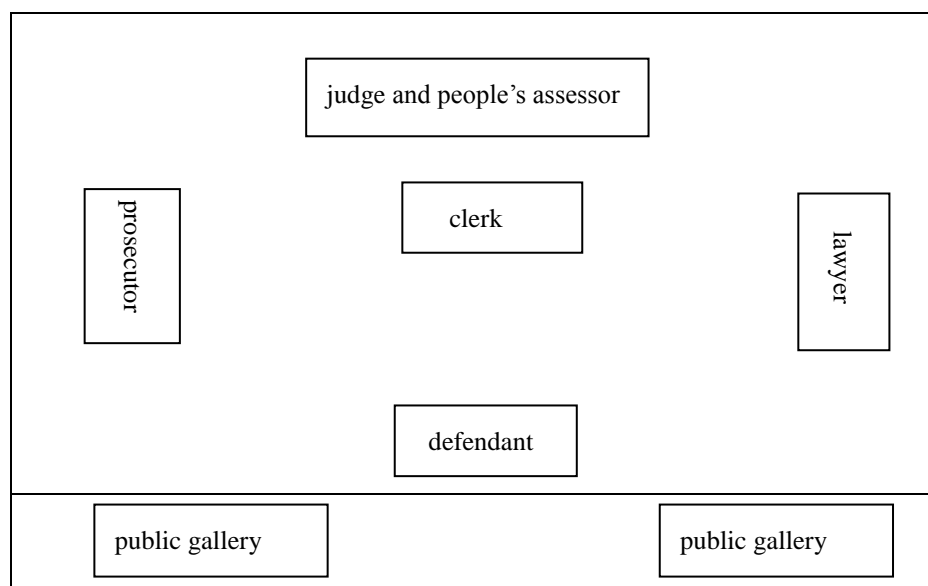


Figure 3. A typical courtroom layout in the fieldwork

Courtroom space is typically constructed in a square or rectangle layout. Entering the courtroom from the door behind the gallery, audience may first notice a national emblem hanging on the wall behind the judge's seat. The emblem is a symbol of judicial legitimacy, which signifies that the

judiciary is vested with the state power and authority in adjudication of the legal proceedings. The size of the national emblem for courts at different levels is specifically laid down in the *Notice 2*. Standing in the public gallery, it is obvious to view that the entire space is divided into two separate zones by wooden fences: one is for trial participants and the other for the general public. The fences not only constitute the functional demarcation of space but also mark a symbolic segregation of participants, indicating what is inside and what is outside the legal drama. The inside arena, which is the stage of the public hearing, is composed of the bench, the seats for the prosecutor, the lawyer, the court clerk, and the defendant's dock.



Figure 4. The criminal courtroom setting in the media [10]



Figure 5. A grand criminal courtroom [7]

Below the national emblem is the bench which is lifted higher than other seats, making it stand out in the room and enabling judges to have the capacity to oversee the proceedings and every other participant in vision. The elevation symbolises the superior status of the judge over other participants in the hearing. He is the most powerful figure in the performance of the criminal trial. He makes commands, declares opening and closing of the trial, presides over the whole proceedings. He raises questions, lays down the rules of what can be articulated and in what way. He also controls time and pace of the proceedings and has the power to interrupt any other participant any time when he sees necessary. He plays dual roles in the legal proceedings: as a finder of the fact and trier of the law.

In some cases, three judges sit in the bench, and in other cases, alongside with the judge there are people's assessors who are lay citizens appointed by the court to form the tribunal. Starting from 2004, eligible citizens under the *Decision on the Perfection of the People's Assessor System* (hereinafter referred to as the *Decision*) can apply to serve as people's assessors in a given court. Different from the common-law jurors who have no prior knowledge of the case until the trial and are chosen through the process of *voir dire*, people's assessors, in accordance with the *Decision*, are conferred with the same power as judges in the hearing (Article 1), which means, they are entitled to look over case files before

the trial, raise questions in the hearing, participate in the deliberation, and express their opinions in the decision-making process. Notwithstanding the empowerment, in all the cases that I observed in the field trip, none of the people's assessors raised questions or made remarks in the proceedings.

Adjacent to the bench is an entrance exclusively used by the judge in most cases: "an arrangement that signifies the judge's social distance from and authority over the rest of the room" [26, p. 82]. This entrance and the working area behind separate the judge from other participants, symbolising his superiority in the room. The inaccessibility and the unknown to the outsider mystify the judicial decision-making process on the back stage. Indeed, it is on the back stage that the judge goes over the case file, examines the evidence, engages in deliberation and eventually arrives at the verdict. These ongoing unknowns in the background determine the actual outcome of the case, life and liberty of the defendant. In this sense, the open trial on the front stage before spectators a procedural performance.

In front of the bench, 20–40 cm lower (the *Notice 1*), sits the court clerk, the stenographer who is responsible for keeping a record of the proceedings and producing trial transcripts. In some cases, the court reporter's seat is placed between the bench and the prosecutor's table. Besides keeping track of case documents, the court reporter is also responsible for making an announcement of courtroom rules prior to the court session. With technological advancement, reporters often use computers to document courtroom conversations. When the trial ends, the reporter prints out transcripts and asks the defendant to read, sign and put his⁴ thumbprints on the documents in acknowledgement of his consent to the contents. As transcripts are recorded in Chinese, if the case involves a non-Chinese defendant, the clerk usually requires the interpreter to assist in obtaining the defendant's signature by translating the transcript orally after the trial.

To the left of the bench is the public prosecutor's table. Sitting opposite the prosecutor is the defence counsel. Under Article 2 of the *Stipulation*, the prosecutor's and the counsel's tables should

⁴ In my trial observations, a majority of defendants are male and interpreters are predominantly female. Therefore, to make distinction, "he" is used to refer to the defendant and "she" is used to refer to the interpreter. The use of these two pronouns does not mean that all defendants are male and all interpreters are female.

form an octagonal angle, both facing the defendant, but this provision did not remain in the subsequent regulations. In my observation, the two tables are mostly put in a face-to-face direction, in almost identical colour, size and shape. The facing direction and the identicalness of the tables create a sense of contestation on an equal footing, in a manner resembling the equal rivalry characteristic of the adversarial system. This seating arrangement echoes the changing ideology of adjudication in the process of China's legal reform with elements of the adversarial trial being gradually introduced and incorporated into the predominant inquisitorial practice. Before the enactment of the *Stipulation* in 1985, in some courts the prosecution seat was placed side by side with the bench [21]. For instance, in the public trial of the Gang of Four, prosecutors were seen to sit alongside judges [17]. The current seating arrangement, therefore, implies a shift in the judicial perception of the role of and relationship between prosecution and defence.

While it is common to see defendants in American courts sitting at the counsel table close to their lawyers, in the Chinese courtroom, however, defendants are held in a dock of a low wooden fence. The dock is facing the bench in a direct opposition, which seems to signify its pivotal status in the room. In fact, defendants are the most important figures in the whole trial. Without their presence, the hearing could not proceed. During the entire proceedings, they are the centre of attention from other participants and the focal points of questions and statements. Judges, prosecutors and their defence counsel are all entitled to put questions to them. Every session of the trial requires their participation. They have to be alert, cautious enough not to provide wrong answers; they have to be responsive; they cannot remain silent because Chinese law does not expressly confer this right. Their silence can be interpreted as uncooperativeness, evasion or dishonesty, which may influence judges' decision making in measurement of punishment. Therefore, even if unwillingly, they have to respond to every interrogation raised by other trial participants.

There is a considerable distance between the dock and the bench, an indication of separation of relationship. The elevated seat for the judge exemplifies the hierarchy between the judge and the defendant. In the grand courtroom as depicted similarly in Figure 5, where the hearing of a felony case

involving dozens of defendants is conducted, the judge's bench, the seats for the prosecutors and the defence lawyers are all placed on a high platform, whereas the defendants are required to line up in their dock on the lower ground, thus creating a sharp contrast in altitude. The defendants have to look up all the time, seemingly subordinate and submissive to other participants. A huge power asymmetry and imposing hierarchy are manifested in this contrastive seating arrangement: people on the platform look more powerful and authoritative, whereas those on the lower ground are seen vulnerable and suppressive. For one thing, this implicates that the defendants do not enjoy an equal status as the other three parties, for they are looked "down" in terms of vision. This may reveal their less advantageous position in the trial. For another, the positioning creates the impression that the judges, the prosecutors and the defence counsel stand on the same side, joining together to interrogate the defendants who are alone to fight for their own rights. Visually and literally the defendants are placed in a weaker position. This contrast, which may be seen as a form of public humiliation to the defendants, imposes a sense of intimidation and gravity on spectators. On this stage-like platform, the performance of the public trial serves the pedagogic function: it conveys the message of what is prohibited by law and what punishment offenders will be conferred with. Symbolically, the trial is staged in a way that constitutes a shaming ritual of the defendants and a warning against potential criminals.

The defendant's dock is detached from the counsel table. Sitting apart at a distance, defendants are not able to exercise the right to counsel adequately. The spatial disconnection disables them from seeking advice from their lawyers when they are interrogated by other participants. They receive no support, either legal or psychological, from the counsel. Separation of defendants from their attorneys could impact on their participation in the trial and increase the fear of the setting. For participants who have no prior trial experience, entering into the courtroom and being enclosed in isolation may result in a sense of intimidation, panic and pressure. The enclosure also implies the legal ideology of treating defendants as someone inferior. In Mulcahy's view [24], the courtroom setting disrupts the conventional use of space because in our daily mode of conversation, confessions and personal stories tend to be told in close and intimate spaces. Nevertheless, in the courtroom space, defendants (and

sometimes victims) are forced to give their personal narration publicly, in a voice louder enough to be heard by participants at a distance. Therefore, she claims that space in this context may be seen to contribute to a “ceremonial stripping of dignity” [24, p. 385].

In between the prosecutor’s seat and the defendant’s dock, according to the *Notice 2*, the witness stand should be placed, but in the field trip, the stand was not commonly seen. This is primarily ascribed to the fact that very few witnesses appear in court to testify in person, and hence no regular seats for them. Such is the predominant practice that witnesses are interviewed before the trial, their statements are produced in writing and then read out in court. The written statements have the equivalent force to oral testimonies in the hearing, and can be admitted as evidence in support of prosecution or defence. The absence of a regular witness stand reflects the judicial practice of relying mostly on written statements, rendering examination of witnesses rare. This practice is characteristic of the inquisitorial trial in China, in contrast to the on-site examination of witnesses, an indispensable component of the adversarial system. It also implies that Chinese criminal trial functions more to verify and ratify the evidence, especially the statements of witnesses obtained from the previous investigation, than to create a forum of debate between the prosecution and the defence sides.

In all the cases that I observed involving non-Chinese-speaking defendants, an interpreter is assigned by the court to assist defendants in communicating with other trial participants. But none of the three national regulations on courtroom layout touches upon the seating of interpreters, and therefore no regular place is designated for them. In some cases, interpreters are assigned to sit beside prosecutors at the prosecution table, and on other occasions they are sitting next to defence counsel. This inconsistent arrangement and a lack of a fixed seat for interpreters reveal the insufficient safeguard of defendants’ right to an interpreter in the criminal trial. Inattention to the role and status of the interpreter is evidenced in the absence of clear guidelines on interpreting and translation in the legal setting. Though the *CPL* has expressly provided defendants a right to interpreting in the entire legal proceedings, it is silent on the qualifications of interpreters. There seems to be an underestimation of the complexities of the interpreting process and the required competence for court interpreters. Many

courts outsource interpreting services to translation agencies, relying on the agencies to look for qualified interpreters, but they do not have an official mechanism to verify interpreters' capability or take actions to supervise the quality of interpreting. Their failure to ensure qualified interpreting services may result in inadequate protection of defendants' lawful right.

Moreover, the flexible seating arrangement gives rise to ambiguity in defining the role and stance of the interpreter, which may lead to ethical dilemmas. As the interpreter sometimes sits next to the counsel, and sometimes beside the prosecutor, she might be seen by the defendant as his alliance or rivalry. On the part of interpreters, due to a lack of a uniform professional code, they may have different perceptions towards their roles, standard of accuracy, and the degree of impartiality and neutrality, and hence may act differently in the interpreting practice. In my observation, some interpreters act actively in the proceedings: they take the initiative to clarify and explain to the defendant; they sometimes take up the judge's responsibility to instruct defendants to provide a straightforward answer. And meanwhile there are other interpreters who tend to be less active, seldom initiate clarifications or explanations unless they are instructed by the judge to do so. The unclear boundary of the role of the interpreter, as reflected in the flexible seating arrangement, signals a gap in the current judicial practice that the defendant's procedural right to interpreting is not well safeguarded.

The wooden fences behind the defendant's dock mark the spatial division between the trial zone and the public gallery. The gallery is close to the public entrance and there is no clear division between the press seat and the public gallery. In accordance with the *CPL*, all criminal trials, except those involving state secrets or personal privacy (Article 183), shall be open to the public (Article 11). Though audience are not allowed to make comments, they play an indispensable symbolic role in the trial. First, they are parts of the collective community action. As Hibbittis points out, the functions of the performed trials can "democratize the law by calling the community to witness, and by making it collectively responsible for the law's effectuation" [18, p. 152]. Second, the public are the targeted recipients of lessons on morality, law and order. The ceremonial ritual of the legal proceedings, maintained by Winner [38], involves the public participation and provides them a chance to reflect

upon the ethical issues. She argues that trials provide a stage where conflicting viewpoints can be articulated and argued, finally leading to a “consensus narrative” that “attempts to unify the philosophical, spiritual, political, or moral values of the community” [38, p. 154]. Knapp shares the similar view that the court ritual can be seen to “protect, purify and reaffirm the moral and social order” [19, p. 21]. These messages and information are communicated through the public hearing to spectators in the public gallery. Additionally, the audience are the eye witnesses of how the legal justice is administered and performed, because, according to Nunn [27], the legal proceedings can demonstrate that justice is done and that the trial is fair.

3.3 The furniture, the light, the facilities

An exploration of the Chinese courtroom reveals its marked difference from other ordinary settings. The courtroom is fully enclosed and segregated by the heavy door. Except the national emblem, there is no excessive decoration on the wall. In some courtrooms there are no windows to view the outside world or embrace the day light. Rooms are lightened by pipes and bulbs all day. All furniture is made of timber, mostly in dark colour; chairs and tables are hefty and grand. The only entrance and exit for the public is the wooden door, imposing and sound-proof. When the door is closed, and if there is no window, people inside the room cannot tell day or night, nor can they know or hear what is going on outside. The legal space is constructed as a completely confined world where insiders may feel overwhelmed by its grandness, solemnity and motionlessness.

The past years have seen electronic appliances used widely in the adjudication of criminal cases. Televisions, for instance, are used for live broadcasting trial proceedings on the Internet, a move in response to the Supreme People’s Court’s endeavour for enhancement of judicial transparency and openness. In some cases where the summary procedure is used, if the defendant pleads guilty and both sides do not dispute the fact and the evidence, the judge may adjudicate a video-trial, that is, the defendant communicates with the judge through the video while remaining in the detention centre.

4 Mobility

Mobility refers to the act of movement from one particular location to another. It may be in the form of material or human displacement, the enabling of which can be understood in relation to power [8]. In the courtroom, mobility denotes that the participants are allowed to make physical movement from their seats. In the American courtroom, prosecutors and defence counsel are commonly seen to leave their seats, stand on a podium in examining witnesses, take steps forward or backward in the designated area when addressing the jury. This mobility implies that participants are vested with some power of controlling their physical movement and enjoy a certain degree of freedom of movability.

But such mobility is less commonly observed in the Chinese courtroom. According to Edward Hall, an anthropologist, when human beings' activities take place in a spatial setting, "the design of that setting has a deep and persisting influence on the people in that setting" [11, p. X]. When trial participants enter the Chinese courtroom, the spatial setting imposes a considerable constraint for their movement and interaction. After all parties are seated and the presiding judge declares the commencement of the hearing, little mobility is made by main participants. Judges and people's assessors remain in the bench during the whole proceedings. Both prosecutors and defence counsel deliver their opinions and raise interrogation in their seats. The defendant is confined to the dock most of the time except in the event that his accomplice is subject to investigation and he has to be taken out of the courtroom. All parties are confined to their own space, maintaining the seating posture in the whole trial. Judges are seldom seen to step down to have a conversation with trial participants in the courtroom, to call them for a side conference, nor are participants allowed to trespass to get close to judges. When the prosecutor presents an exhibit to the court, he or she has to pass it to the court reporter or the bailiffs first, rather than submit it to the judge directly, which symbolises the social distance between the judge and the rest of the parties as well as the hierarchical relationship between them. More severe constraints on mobility are imposed on the defendant. When he is called to enter the

courtroom, he is escorted by bailiffs. Then he is urged to sit on a specially-designed chair, which places him in a fully enclosed position. Whenever he is trying to stand up, he is then pulled back to the seat by bailiffs. During the whole proceedings, he is kept a close watch on by bailiffs. His any attempt to make physical movement will be immediately noticed and prohibited by bailiffs.

As trial participants are generally not allowed to leave their own seats, this may become constraints for the shift of interpreting mode in the bilingual trial. In some countries, the interpreter does consecutive interpreting in her regular seat and switches to whispering interpreting by sitting next to the defendant. In the Chinese courtroom, however, consecutive interpreting is the only mode that is utilised in most cases. It is true that participants' restricted physical movement is not the main reason why whispering interpreting is disallowed, but granting the interpreter freedom of mobility would be essential for the use of two interpreting modes.

Bailiffs, who usually guard defendants during the trial, are the only persons that are seen to have considerable mobility. Having received instructions from the presiding judge, they pass documents from one participant to another. They show photocopies of exhibits to defendants and lawyers for verification. The power to grant mobility is vested with the judge. Participants have to obtain permission if they want to leave their seats or the room. As mobility in this given space implies "deference, degrees of interpretational distance, and social rank and relationship" [22, p. 1], the freedom of movement constitutes symbolic resources representative of ritual order and power relationship [22]. The highly-constrained mobility in the Chinese criminal courtroom signals the considerable judicial power of manipulation and domination in the spatial setting.

5. Attire

When actors perform on the stage, costumes are an essential tool to produce the dramatic atmosphere. This is also true in the judicial theatre of courtroom. Judges and lawyers wearing black robes and wigs in English courts have contributed to the thespian performance of trial. Symbolically, these figures in

costumes are seen to carry the dignity of the judicial process, representation of power, solemnity of the judiciary and justice. The robe of the judge is a “social sign” which conveys a message that the legal professional, discarding his individuality, takes up the responsibility of making an impartial judgement under the law [5, p. 226].

For a very long time after the founding of the People’s Republic of China, there had not been a unified dress code for judges. It was not until 1984 that the authority started to standardise the judiciary habiliments. The first uniform for the judge (see Figure 6) was of a military style, in dark blue, with an epaulet on the shoulder part. Together with a big visor cap, this judicial attire resembled the police uniform. In 2000, a black robe was designed to replace the service-style apparel (see Figure 7): the epaulet was removed; a short splash of red with golden buckets was added. This long-knee-length robe plays a role in promoting the judicial image of justice and professionalization [4].

Change of the judicial attire is an important part of China’s legal reform. According to Jeremy Frank, the late American federal judge, the uniform appearance of judges could imply the notion of uniform justice and promote public’s respect for the rule of law [14]. The function of the robe, in the adversarial legal philosophy, is to “enhance the prestige of the judge, and the respect for the process” [5, p. 222]. The black robe is instrumental in building up a professional and neutral image of the profession and strengthening the public’s belief in legal justice. This philosophy is also reflected in China’s efforts in constructing a professional image of the legal practitioners. Replacement of the previous service style with the robe has implied the change of societal and judicial ideology towards the role of judges. The old attire, bearing more resemblance with a police or military uniform, was imposing and intimidating to the public. The image of the judge in this dress bore a connotation that the judiciary was a powerful weapon of deterrence, rather than a source of justice [4]. The likeness between the judge’s garment and that of the police also symbolised the alliance relationship between the court and the police agencies, in contradiction to the principle of judicial impartiality and neutrality. Compared with the old attire, the robe, similar to the common-law style, is less imposing and more effective in formulating a professional, neutral and independent image of the judge.



Figure 6. Judge's uniform in the 1980s [6]



Figure 7. Judge's robe in 2004 [7]

Costume is magical in a sense that when actors put on them and act on the stage, they take up the role embodied in the costumes and become someone else. It is said that one power bestowed with the black robe is to remind the judge of the responsibility that he/she needs to assume, impartiality and justice he/she has to pursue in the trial. In the English courtroom, prosecutors and barristers wearing black robes and wigs are believed to be conferred with a sense of justice and respect for law. This conceptualisation is shared by its Chinese counterparts. Starting from 2000, prosecutors typically wear dark blue suits and red ties in court. The suit bears a badge with a label of the procuratorate. In 2003, Chinese lawyers started to have their own outfit: a black robe and a dark red scarf. On the robe there is a badge with an image of two concentric circles, five stars and a label of the bar association. The move to unify habiliments for judges, prosecutors, and lawyers reflects the judicial efforts to establish a system of professionalisation for legal practitioners.

Defendants in the American trial are often seen to wear their own clothes. For example, in the O.J. Simpson's trial, Simpson wore a decent suit in court. It is found that defendants' appearance will have an influence on the jury's perception and may thus impact on the outcome of the trial [32]. Some argue that the defendant in the jail clothing may create a guilty impression, and pursuant to the principle of presumption of innocence, it is inappropriate for the court to prohibit defendants from presenting themselves in an innocent image [32]. As a result, defendants in the American criminal justice system enjoys a certain degree of freedom as to choose what they can wear in the court and to present

themselves in a best posture.

The situation in Chinese courtroom is different and has undergone changes. Before 2015, the typical dress for defendants was sleeveless jackets bearing the mark of the detention centre. According to the *CPL*, suspects are normally detained and put into custody until the day of the trial. Very few can be released upon bail. In my fieldwork, all defendants were wearing the jail uniforms in court, and some had a shaven head. It is generally agreed that the principle of presumption of innocence is at the heart of the adversarial criminal justice system. Allowing defendants to wear their own clothes in court signify that they are treated as ordinary people, as they have not been proved guilty. This principle has been gradually established in China as well. Similar articulation is made in Article 12 of the *Criminal Law*, though the term of presumption of innocence is not used. Requiring defendants to put on detention uniforms in court is in conflict with this principle, because by doing so, it distinguishes defendants from ordinary people; the label of the detention centre leads the public to associate them with conviction. Defendants, therefore, may have a sense of shame and inferiority in public. This practice constitutes a shaming punishment, exhibiting the underlying notion of presumption of guilt. This presumption, rooted and practised in the Chinese criminal justice system for a long time, has been subject to severe criticism and there has been a constant call for abandonment from the legal circle. It is believed that Article 12 of the *Criminal Law* is a response to the criticism, demonstrating the judicial efforts to establish the principle of presumption of innocence in the Chinese criminal justice system, but what is practiced in reality is not in line with what is stipulated in the law, which reflects the deep-rooted and long-standing notion of associating suspects with guilt.

To respond to the criticism and to safeguard defendants' human rights, in February 2015 the Supreme People's Court and the Ministry of Public Security jointly stipulated that criminal defendants and appellants shall be allowed to wear their ordinary clothes in the court trial, and shall not be forced to put on any jail-uniform-like clothing [23]. This notice came right after the announcement of the *Opinion of the Supreme People's Court on Comprehensively Deepening the Reform of the People's Courts*, which is seen as the judiciary determination to remove the criminal label attached to defendants

and to improve their human rights.

6. Concluding remarks: courtroom semiotics, ideology and symbolic power

For anyone facing any criminal charge, a fair and public hearing is a fundamental human right that is protected and safeguarded in the international conventions (e.g. Article 10 of the *Universal Declaration of Human Rights*). To ensure the fair trial right, live performance in public, therefore, is essential and characteristic of the judicial process [1]. It is inside the courtroom that the hearing is staged and performed. It is contended that probing into the courtroom and courthouse design can enhance our understanding of the trial itself [24], as ideology of adjudication and perception of justice is closely bound up with the design and use of the space [34].

In this paper, on the basis of ethnographic fieldwork in seven different courtrooms, and through a detailed account of the internal configurations of the physical setting, the seating arrangement and the evolving attire of trial participants, we have explored, from a semiotic perspective, the interface between justice and the space in which it operates. Major findings are summarised as follows.

First, as courtroom layout is an iconic resemblance of judicial ideology [26], an examination of the Chinese courtroom setting reveals a hybridity in the trial ideology: predominantly inquisitorial with certain adversarial elements. For one thing, the elevated bench is a manifestation of the judge-centeredness ideology that is emphasised in the *Notice 2*. In the actual trial, the judge is seen to be in charge of the proceedings and play an active role in investigating the evidence and questioning the defendant, a characteristic of the inquisitorial system. The fact that the witness' stand is not regularly placed in the courtroom and that judicial decisions are mostly made on the basis of written documents instead of oral arguments provides further evidence of the inquisitorial-oriented adjudication ideology. For another thing, adversarial elements find the clues in the seating arrangement for prosecutors and defence counsel. The face-to-face placement symbolises the opposing and competing relationship between the two sides. At the second stage of the trial proceedings, subsequent

to the courtroom investigation, two sides are given a chance to engage in a debate on disputed facts and legal issues. Nevertheless, because witnesses rarely testify in court, direct/cross-examination, which is at the centre of the adversarial trial, is impossible to be carried out, rendering the equal rivalry between the two sides a principle on paper.

Second, as Resnik, Curtis, and Tait believe that, “[a]ttitudes about the roles of judges, litigants, lawyers, and the public audience...organize courthouse space” [30, p. 516]. The positioning and design of the defendant’s dock indicate his vulnerable status and inability to receive adequate legal support. Placed at the centre of the courtroom, the defendant becomes the focus of everybody’s attention and indeed he is the focus in the entire proceedings. The dock is positioned facing the bench directly, which may produce a sense of confrontation between the defendant and the judge, the most powerless figure and the most powerful one in the room, thus imposing an overwhelming pressure on the former. This symbolic positioning, however, seems to run counter to the general perception that it is the prosecutor, rather than the judge, who, on behalf of the state, initiates accusations against the defendant and who is the actual opponent of the defence, whereas the judge is supposed to be a referee to play a neutral and impartial role. This placement may create a vague boundary of the judge’s stance in the trial.

Moreover, the distance between the dock and the counsel table impairs defendants’ right to counsel and the right to defence. Sitting away from his lawyer, the defendant cannot obtain any legal advice on how to handle interrogations and how to make an effective defence. The full enclosure in the dock with restricted mobility further exemplifies his vulnerability. Physically being alone and isolated, with no chance to communicate with his counsel, the defendant is left on his own helplessly. For minority-language-speaking defendants, the distance between them and the interpreter, the inconsistent seating arrangement for the interpreter, both may undermine his right to interpreting. The placement of the dock in the courtroom suggests that defendants are placed at a disadvantageous position and their lawful rights may not be fully protected in the trial.

An inquest into the historical development of the Chinese courtroom setting and the change of the attire informs us of the transformations of judicial ideology and perception of legal justice. The

requirement that defendants should not wear jail uniforms in court is a sign of the changing social perception of the status of defendants, demonstrating a growing awareness of their rights. The act to remove the guilty label attached to defendants consolidates the principle of presumption of innocence. The apparel for judicial officers and lawyers signifies the historical development of professionalization of the career and reduced interference from the state.

To conclude, the semiotic exploration of the Chinese courtroom space and the sign system therein informs us of the underlying legal ideology in adjudication and power relationship, which enables a better understanding of the Chinese criminal justice system. In terms of limitations, as the analysis in this current study is only based on seven courtrooms in one city, given the fact that China is a vast country with great regional differences, there might be other semiotics variations that have not been dealt with. For a comprehensive and representative study, a larger amount of data collected from a wide range of locations is needed. And if it is possible, a comparative study can be done on the courtroom setting between countries using the inquisitorial system, or between the inquisitorial and the adversarial system.

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